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**COMMISSION STAFF WORKING DOCUMENT**

**Refitting the EU legislation on seafarers' training and certification**

*Accompanying the document*

**Proposal for a Directive of the European Parliament and of the Council  
amending Directive 2008/106/EC on the minimum level of training of seafarers and  
repealing Directive 2005/45/EC**

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## 1. CONTEXT

The vital role of seafarers in the safety operation of ships and the need for minimum standards for the education, training and certification of the seafarers has been recognised at international level since the 1970's. The International Convention on Standards of Training, Certification and Watchkeeping for seafarers (STCW Convention) developed under the International Maritime Organization (IMO) lays down minimum requirements for the education, training and certification of seafarers, employed on board seagoing ships, and provides the requirements for the relevant certification and the recognition of the seafarers' certificates issued by the Parties to the Convention.

The importance of the human element for the safety of life at sea and the protection of the marine environment has been recognised at the Union level since the beginning of the 1990's<sup>1</sup>. In this respect around 180.000 masters and officers are trained in the EU while another 100.000 are working on board the EU fleet are trained outside of the Union<sup>2</sup>.

Directive 2008/108/EC, as amended<sup>3</sup>, integrates at the EU level the international framework on the training and certification of seafarers as prescribed by the STCW Convention. The Directive was put in place in order to attain a high level of safety through the enhancement of maritime education, training and certification of seafarers by setting minimum training and education standards. At the same time, the Directive is aiming at the harmonised implementation of the STCW Convention by the Member States and their compliance with the relevant requirements, especially in light of the absence of any international mechanism for the rigorous enforcement of the Convention.

Directive 2008/106/EC also contains a common EU mechanism for the recognition of the systems of maritime education, training and certification of seafarers from third countries. The overall objective of this centralised procedure is to establish a level playing field between seafarers trained inside the Union and seafarers trained in third countries by ensuring that non-Union seafarers are trained as a minimum according to the international requirements imposed by the STCW Convention.

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<sup>1</sup> In its conclusions of 25 January 1993 on maritime safety and pollution prevention, the Council noted the importance of the human element in the safe operation of ships. Also, in its resolution of 8 June 1993 on a Common Policy on Safe Seas, the Council set the objective of removing substandard crews and gave priority to action aimed at enhancing training and education by developing common standards for minimum training levels of key personnel.

<sup>2</sup> Data published in <http://www.emsa.europa.eu/publications/technical-reports-studies-and-plans/item/3094-seafarer-statistics-in-the-eu-statistical-review-2015-data-stcw-is.html>. It has to be noted that data were available only for 2014 and 2015 since the data regarding 2016 will be populated in STCW-IS database by the end of 2017. The STCW-IS database started to operate in 2014 and thus this is the first year for which data are available.

<sup>3</sup> Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33). Directive, as last amended by Directive 2012/35/EU of the European Parliament and of the Council (OJ L343, 14.12.2012, p.78).

Directive 2005/45/EC<sup>4</sup> had as an objective to foster the professional mobility of seafarers within the EU by facilitating the mutual recognition of seafarers' certificates issued by the Member States. The Directive introduced a simplified procedure for the recognition of seafarers' certificates issued by the Member States. The purpose was to ensure that all seafarers, who are qualified in a Member State and hold such certificates, will be permitted to serve on board ships flying the flag of any Member State.

## 2. BACKGROUND

In the spirit of the Commission's regulatory fitness and performance programme (REFIT) and Better Regulation agenda the Commission undertook an evaluation of the EU regulatory framework on the minimum level of training and certification requirements for seafarers and on the mutual recognition of seafarers' certificates issued by the Member States<sup>5</sup>. The evaluation concluded that both Directives are fit for purpose and have met to a great extent the initial objectives and expectations.

However, it also identified elements that have hindered the effectiveness and the efficiency of the legislative framework. In particular, the evaluation concluded that:

- There is the need to align Directive 2008/106/EC with the latest amendments to the STCW Convention. In this respect, the current procedure for incorporating amendments of the STCW Convention causes considerable delays and poses the risk of the Union law to be inconsistent with the international framework for a significant period of time.
- The administrative framework regarding the recognition and re-assessment procedure of third countries should be amended in order to become more efficient and effective, namely:
  - A realistic timeframe, taking into account all the procedural steps that the recognition of new third countries entails, should be envisaged.
  - The available financial and human resources on the recognition of third countries should be used in a more efficient manner. In this regard, the procedure should take into consideration the number of masters and officers likely to be employed from the third countries.
  - In this context, the re-assessment procedure for some third countries, for which limited number of endorsements are issued by the Member States and for which there is strong indication that they continue to comply with the requirements of the STCW Convention, should be performed in longer intervals than the current 5 years period.
- There is a need to clarify and increase legal certainty on the scope of the scheme for the mutual recognition of seafarers' certificates issued by the Member States. Directive 2005/4/5EC should be repealed and the mutual recognition scheme should be

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<sup>4</sup> Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member States (OJ L 255, 30.9.2005, p.160).

<sup>5</sup> SWD(2018)19

regulated by Directive 2008/106/EC in order to avoid inconsistencies and reduce the administrative burden.

### **3. DATA COLLECTION AND STAKEHOLDER CONSULTATION**

This revision builds primarily on the data collected during the REFIT evaluation as reported in the relevant Commission Staff Working Document. In addition to the data and consultation carried out in the framework of the REFIT fitness check, the preparation of this proposal necessitated an input from technical and legal experts regarding the concrete formulation of the technical requirements. This expertise was gathered internally, in cooperation with the European Maritime Safety Agency (EMSA), and during a workshop organised on 6 March 2018 with experts from the national administrations and industry stakeholders.

Given the technical nature of the envisaged proposal, a targeted consultation has been considered the most adequate consultation tool. The consultation lasted for 4 weeks, following an extension of one week to the initial period, between 5 February 2018 and 2 March 2018. National experts and stakeholders representing seafarers' and shipowners' interests have been consulted and the results of this consultation together with a summary of the workshop organised are reported in Annex 1 and 2.

The feedback on specific comments or concerns raised during the consultation process is provided in Chapter 4 according to the individual measures proposed. Where the Member States (MS) did not wish to be identified, their responses are referred to in an anonymous form (i.e. 'a MS'). Despite the overwhelming support of national experts and of stakeholders representing seafarers' interests for the proposed measures, a number of concerns or comments have been raised by stakeholders representing shipowners' interests with respect to the centralised mechanism for recognition of third countries. Their suggestions have been therefore carefully reviewed and taken into account as it is explained below.

### **4. ENVISAGED ADJUSTMENTS OF THE LEGAL FRAMEWORK**

The purpose of this chapter is to recall the recommendations of the REFIT evaluation, to explain the rationale of the proposed solutions from the technical as well as legal perspective and to provide feedback on the comments raised during the consultation process. Given that the envisaged measures in the proposal are of a technical nature and primarily consist of non-measurable impacts such as legal clarity, certainty and simplicity, no materially different policy options have been identified besides the baseline scenario of no further EU action. For this reason, and in line with the Commission's Better Regulation Guidelines, a fully-fledged impact assessment has not been carried out.

The overarching objective of this revision is to simplify and streamline the existed EU regulatory framework on seafarers' training and certification in order to: i) keep the EU rules aligned with the international framework; ii) revamp the centralised mechanism for the recognition of third countries in order to increase its efficiency and effectiveness; and iii) increase legal clarity regarding the mutual recognition of seafarers certificates issued by the Member States.

## 1.1. ALIGNMENT OF DIRECTIVE 2008/106/EC TO THE LATEST AMENDMENTS TO THE STCW CONVENTION

The REFIT evaluation concluded that there is a need to keep the current EU framework in line with the international framework, namely the STCW Convention. Since the last amendments to Directive 2008/106/EC, introduced by Directive 2012/35/EU<sup>6</sup>, which incorporated in the Union legislation the so called 'Manilla amendments' to the STCW Convention in 2010, there were three new amendments to the STCW Convention: i) amendments to Regulation V/2 regarding minimum requirements for training and qualifications of seafarers working on board passenger ships; ii) a new Regulation V/3 introducing minimum training and qualification requirements for seafarers working on board ships subject to the International Code of safety for ships using gases or other low-flashpoint fuels (IGF Code); and iii) a new Regulation V/4 introducing minimum training and qualification requirements for seafarers working onboard ships operating in the polar waters.

It is therefore proposed to align the existing legislative framework with the latest amendments to the STCW Convention in relation to the training and qualification requirements for seafarers working on board ships subject to the International Code of safety for ships using gases or other low-flashpoint fuels (IGF Code), seafarers working on board passenger ships and on board ships operating in polar waters. *This option was fully supported by the Member States and the other stakeholders during the consultation.*

For this purpose, it is proposed that Regulation V/2 in Annex I to Directive 2008/106/EC is replaced by the new Regulation V/2, reflecting the amendments regarding training and qualification requirements for seafarers working onboard passenger ships. In addition, it is proposed that two new regulations are introduced, Regulation V/3 and Regulation V/4, in Annex I of Directive 2008/106/EC in order to reflect training requirements regarding seafarers working onboard ships subject to the IGF Code and the Polar Code respectively.

In order to fully incorporate the relevant amendments to the STCW Convention into Directive 2008/106/EC, it is also proposed that definitions in relation to 'IGF Code', 'Polar Code' and 'Polar waters' should be introduced in the Directive. Moreover, Article 12 is proposed to be amended in order to be aligned with the amendments to the STCW Convention.

Article 12 paragraph 3 is proposed to be amended in order to include in its scope not only certificates of competency but also certificates of proficiency. This was an omission of the current Directive and it is proposed in order to align it with Regulation I/11 paragraph 5 (previously paragraph 4) of the STWC Convention. In this vein, a new paragraph 3a is proposed to be inserted in Article 12. This amendment is in line with paragraph 10 of the new Regulation V/3 of the STCW Convention. In particular, the Member States shall issue Certificates of Proficiency to seafarers who are qualified under paragraphs 4 or 7 of the new Regulation V/3 under Annex I to the Directive. Therefore, a comparison of any standards of competence required by the Member States before 1 January 2017 should be conducted with the new standards of competence under Section A-V/3 of the STCW Code and it shall be

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<sup>6</sup> OJ L343, 14.12.2012, p.78

determined by the Member States the need to require from the seafarers certified under the old standards to update their qualifications.

A further conclusion of the evaluation was that every time the STCW Convention is amended, a formal legislative procedure for the amendment of the Directive is necessary in order to incorporate in the Union legislative framework any new requirements of the STCW Convention. This procedure causes considerable delays and could lead to misalignment between the EU and the international framework until any new international requirements are incorporated into the Directive. Therefore, it is proposed that the power is conveyed to the Commission to adopt delegated acts in order to bring about the alignment of the Directive with any future amendments to the Convention. *The need for such a mechanism which would ensure a rapid alignment between the technical requirements of the Directive and the STCW Directive was fully supported by all the participants during the consultation.*

## **1.2. REFITTING THE CENTRALISED SYSTEM FOR THE RECOGNITION AND REASSESSMENT OF THIRD COUNTRIES**

The centralised mechanism for the recognition and re-assessment of the third countries under Directive 2008/106/EC was one of the main areas of concern indicated by the evaluation. In particular, the evaluation showed that the efficiency of the centralised system was hampered in three ways:

i) the available financial and human resources were used inefficiently in some cases since there were requests for recognition of third countries from which eventually only very few seafarers were employed. In particular, it was indicated that under the current procedure the Member States tended to submit request for recognition of third countries without any justification for such a need.

ii) The current deadline of 18 months, in order to adopt a Commission decision for the recognition of a third country following a request from a Member State, is unrealistic and does not reflect the necessary diplomatic procedure to contact the authorities of the third country in order to schedule an onsite inspection by the European Maritime Safety Agency (EMSA) on the basis of which the Commission assess the compliance of the third country with the requirements of the STCW Convention. In addition, when the third country has to implement corrective actions, including amendments to its national legislation, in order to comply with the STCW Convention requirements, and thus being able to be recognised at the EU level, additional time is required.

iii) The obligation of equally reassessing every third country on a five year cycle without consideration of the actual number of masters and officers holding certificates issued from every country has resulted to inefficient use of the available resources. It was indicated by the evaluation that if the available resources are used for the re-assessment of countries which provide a very low number of masters and officers at the same way for the major labour providing countries then the latter might not be monitored at the appropriate level.

### **Need to recognise a third country**



In order to address the above problematic areas and to increase the hampered efficiency of the centralised mechanism it is proposed that the procedure for the recognition of new third countries should take into consideration the need for such recognition on the basis of an analysis, including an estimation of the number of masters and officers likely to be employed from that country. In this regard, it is proposed that Article 19 paragraph 2 is amended in order to provide for a new procedural step following the submission of a recognition request by a Member State.

In particular, it is proposed that the Member State submitting the request for recognition of a third country should also provide a preliminary analysis of the third country's compliance with the requirements of the STCW Convention, accompanied by an estimation of the number of masters and officers likely to be employed from that country. In addition, it is proposed that following the submission request from a Member State an implementing decision to initiate the recognition process will be adopted by the Commission.

The proposal aims to raise the transparency in relation to new requests submitted by the Member States for the recognition of third countries. The adoption of the implementing decision by the Commission will allow for a thorough exchange of arguments and a discussion between the Member States on whether the Union resources shall be mobilized and invested for the recognition of a third country. Thus, recognition requests which have been submitted in the past without solid justification will be avoided in the future and the Union resources will be used in a more transparent and efficient way.

*The proposed measures reflect the high support which was received by the Member States and the stakeholders during the consultation on the need to introduce a discussion for the reasons to recognise a new third country (66,5% of the participants expressed a positive opinion). The same support was showed for the need to accompany the recognition request with an analysis, including an estimation of the number of masters and officers likely to be employed from the third country (71% agreed with this view).*

The above measures were highly supported by the seafarers' who expressed unanimously the need for such a procedural step. On the other hand, participants representing shipowners' interests expressed concerns that such a decision might reduce the current flexibility of the Member States to request the recognition of new third countries. Their main concern was related on whether such a step would go against Regulation I/10 of the STCW Convention under which, according to these stakeholders, it should be up to the Member States to decide to recognise a third country or not.

The concerns put forward by these stakeholders, although being against the vast majority of the participants in the consultation, have been taken into account by the proposed measures. In particular, the flexibility of the current system is maintained since the requesting Member State(s) will continue to be able to unilaterally recognise, under their own responsibility, certificates issued to masters and officers by the third country. As a result, if there is an immediate need for a shipowner to employ seafarers originating from a third country not yet recognised, the Member State concerned could recognise unilaterally that third country and thus allowing the shipowners using its flag to employ seafarers coming from that country.



*Therefore, the new procedural step will not deprive the current system of its flexibility. However, at the same time will not allow that Union's resources are used for the recognition of third countries only for one seafarer who became occasionally available to a shipping company flying the flag of one of the Member States.*

In relation to the argument that such a step might go against the STCW Convention, it is considered that nothing is changed in relation to the ultimate recognition or not of a third country which since 2003 is decided at the Union level and not by each Member State individually.

Furthermore, it is proposed that the current deadline for the recognition of a third country is extended from 18 months to 24 and in case that there is a need for major corrective measures to be adopted by the third country, such as amendments to the national legislation, then the deadline shall be further extended to 36 months. As it was explained above, the REFIT evaluation indicated that the deadlines should reflect better the reality and the time needed to recognise a third country. *This view was supported by the majority of the participants to the consultation (80% for an extension to 24 months and 75% for a further extension to 36 months).*

In relation to any negative impacts by the introduction of the above measures, only the stakeholders representing seafarers' interests expressed their concerns that by allowing a unilateral recognition of the third country by the requesting Member State negative impacts, especially to maritime safety might arise. As a result, the proposed measures had to balance this concern with the concern expressed by the stakeholders representing shipowners' interests to maintain flexibility of the system. Thus, the proposed measures allow the possibility for the requesting Member State to unilaterally recognise the third country in order to maintain the competitiveness of the EU fleet through the flexibility of the system, as it was explained above. However, in order to minimize the potential risk, the Member State unilaterally recognising the third country shall already conduct a preliminary assessment of the compliance of that country with the requirements of the STCW Convention.

### **Validity of recognition of third countries from which there are no seafarers employed**

In this vein and in order to further increase the efficiency of the centralised system, it is proposed that a third country from which there are no masters or officers employed for more than 5 years in any of the Member States shall be de-recognised. It is considered that if there are no endorsements attesting recognition of certificates of competency or certificates of proficiency for tankers<sup>7</sup> for a period of 5 years, then this is a strong indication that either the relevant third country has stopped to invest in its maritime educational system or that the European shipowners have stopped to being interested to employ seafarers from that country. The time period of 5 years as the reference period was chosen as the most appropriate since the endorsements attesting recognition of certificates are valid for up to 5 years.

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<sup>7</sup> Regulation V/1-1 and V/1-2 of the STCW Convention

Therefore, the de-recognition is referring only to extreme cases of not even one master or officer being employed in the EU fleet during a period of 5 years and will allow the release of resources which otherwise would remain allocated for the re-assessment of such a third country. These resources could be used for the recognition of new third countries while at the same time the list of the third countries recognised will remain manageable with the currently available resources<sup>8</sup>. In this regard, it should be mentioned that most of the third countries currently recognised, have been grandfathered in the Directive from the old system of recognitions, which dates back to the 90's, under which each Member State was individually recognising a third country. Hence, the proposed measure would allow the renewal of that list by de-recognising countries which have ceased to be interested in seafaring and allowing the addition of new countries which developed such an interest.

*The idea of de-recognising a third country also on the basis of the number of seafarers employed from that country received the support of the participants in the consultation (64% replied that fully or partially agree).* However, the stakeholders representing shipowners' interests expressed their concerns on introducing a threshold in relation to the seafarers who shall be employed from a third country in order to be kept recognised. This concern has been taken into account in the proposed measure by only introducing the de-recognition of third countries from which there is not even one master or officer employed on board the EU fleet for a long period. Hence, the de-recognition is considered to have no impact or minimal impact since the requirement introduced is that there would be no seafarer employed on board the Union fleet from that country for the preceding period of 5 years.

### **Reassessment of third countries and use of available information on seafarers' certificates**

In this context, and to further increase the efficiency of the centralised system, it is proposed that the reassessment procedure for third countries which provide limited number of seafarers in the Union fleet should be conducted in longer intervals. In particular, it is proposed that the legal obligation to reassess a third country is extended from 5 to 10 years. The extension is accompanied with priority criteria in order to safeguard the level playing field and the high level of seafarers' training and education provided in all the third countries recognised.

On the basis of priority criteria, it would be possible to manage on a more efficient and effective way the available resources. The major labour supplying countries or countries with potentially high safety risk could be targeted and inspected more frequently by releasing the necessary resources from third countries which either provide the Union with lower numbers of seafarers or there are strong indications that comply with the requirements. *For the latter category of countries, it was indicated and supported by the stakeholders (66% of the participants) that the reassessment could be spanned on longer intervals than 5 years and up to 10 years.*

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<sup>8</sup> Currently there are 49 third countries recognized at EU level.

As a safeguard to potential safety threats, the priority criteria<sup>9</sup> shall take into account all the available sources of information in relation to a potential deterioration of the level of maritime training and education in the third countries. In addition, it is proposed that in case of non-compliance of a third country to the requirements of the STCW Convention, , its reassessment shall take immediate priority.

In this vein, it is proposed that the information collected on the seafarers trained and employed from the third countries should be used in order to increase the efficiency of the centralised mechanism by feeding in the necessary information. As a result, it is proposed that Article 5a and Article 25a are amended in order allow for the use of the relevant information in determining priority criteria and de-recognising third countries for which there are no endorsements issued by any Member State for a period of more than 5 years.

### **1.3. MUTUAL RECOGNITION OF SEAFARERS' CERTIFICATES ISSUED BY THE MEMBER STATE**

The main conclusion of the REFIT evaluation in relation to Directive 2005/45/EC was that the definition of certificates included in this Directive does not take account of the 2010 amendments to the STCW Convention, which introduced the distinction between Certificates of Competency (CoC) and Certificates of Proficiency (CoP). As a result the definition of the seafarers' certificates that are falling under the scope of the Directive has become obsolete, creating uncertainty and being the source of many complaints from the side of seafarers. Hence, the evaluation suggested updating the relevant definition by merging the two Directives and including the mutual recognition scheme under the scope of Directive 2008/106/EC.

It is therefore proposed that Directive 2005/45/EC is repealed and a new Article 5b regarding the mutual recognition of seafarers' certificates is introduced in Directive 2008/106/EC. *The merger of the two Directives was highly supported by all the stakeholders participated in the consultation (85% of the participants).* In this regard, it is proposed that a definition for 'host Member State' is included in Article 1 which is deemed necessary to clarify the responsibilities between the Member States. This definition is originated from the repealed Directive 2005/45/EC. In addition, it is proposed that the scope of Directive 2005/45/EC is also incorporated as a new paragraph 2 in Article 2 of Directive 2008/106/EC.

The above intervention is considered to address the concerns raised by a Member State during the consultation period regarding the cases where a Member State is approving training courses in another Member State. The location of the training courses approved by a Member State should be irrelevant for the purposes of the mutual recognition of certificates issued by or under the authority of this Member State. Directive 2008/106/EC has followed the same approach as the STCW Convention under which the competent authorities of a Member State approve maritime schools and programs which constitute their maritime educational system for which they hold full responsibility.

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<sup>9</sup> Set out in in Article 21

The proposed Article 5b maintains the scope of the repealed Directive 2005/45/EC in relation to the purpose of the mutual recognition of seafarers' certificates issued by the Member States. Certificates of Proficiency and Documentary evidence issued by a Member State, and which do not need to be endorsed under Regulation I/10 of the STCW Convention, shall be accepted by another Member State for the purpose of allowing seafarers to serve onboard. As a result, seafarers who hold specialised Certificates of Competency issued by a Member State, as for example Certificate of Proficiency as ship security officer, will be allowed to serve under the same capacity on board a ship flying the flag of another Member State.

Moreover, paragraph 2 clarifies the way of recognition for Certificates of Competency or Certificates of Proficiency, issued in accordance with Regulations V/1-1 and V/1-2. When these two categories of seafarers' certificates are presented for recognition to another Member State then the latter shall recognise them by issuing the necessary endorsement attesting recognition. This measure reflects the international obligation of the Member States under Regulation I/10 of the STCW Convention and does not change the scope of the repealed Article 3 of Directive 2005/45/EC.

In addition, paragraph 6 provides the possibility, given already to seafarers certified by a third country under Article 19 paragraph 7 of the Directive, for seafarers to serve onboard for a period of three months while their application for endorsement of their national certificates is being processed by the competent authority of a Member State. This addition reflects a proposal which was put forward by the stakeholders representing shipowners' interests.

*The vast majority of the participants to the consultation supported the clarification of the mutual recognition scheme for seafarers' certificates by maintaining the scope under the repealed Directive 2005/45/EC (75% of the replies). On the contrary, a proposal to expand the scope and include also the possibility of recognising seafarers' certificates for the purpose of issuing national certificates was rejected by the 59% of the respondents.*

*Finally, during the consultation it was proposed by some Member States to also include the medical certificates in the scope of the mutual recognition scheme. This idea was discussed during the workshop organised on 6 March 2018 with national experts and stakeholders and was unanimously upheld by the participants. Therefore, the proposed measure also includes the recognition of medical certificates issued to seafarers in accordance with the current Article 11 of Directive 2008/106/EC.*

## **ANNEX 1: SUMMARY OF TARGETED CONSULTATION ON AMENDING DIRECTIVE ON THE MINIMUM LEVEL OF SEAFARERS TRAINING INCLUDING THE MUTUAL RECOGNITION OF CERTIFICATES BY MEMBER STATES**

The objective of this consultation, targeted at national experts on the STCW Convention and stakeholders representing seafarers' and shipowners' interests, was to support the Commission, assisted by the European Maritime Safety Agency, in the concrete formulation of the envisaged proposal. The results formed a basis for the discussions that took place during the workshop organised with national experts and stakeholders on 6 March 2018.

### **Consultation period**

Given that the results and recommendations of the REFIT evaluation have been fully disseminated and the proposals were built primarily on the data collected during this process, the stakeholders had 4 weeks to provide their replies. The deadline, which was initially set on 26 February 2018, was extended until 2 March 2018 to allow higher participation in the consultation. The Commission processed the results and informed the experts and stakeholders on the outcome of the consultation and any issues that were raised for discussion during the workshop on 6 March 2018.

### **Format and process followed**

The questionnaire consisted of two parts, one focusing on the procedures for the recognition of third countries, and a second part about the mutual recognition of seafarers' certificates issued by EU Member States.

All the contributions were submitted through the online questionnaire, accessible via a link distributed to every stakeholder individually, or in case of seafarers through their unions that were contacted directly by the Commission. As the working language is English, the questionnaire was only available in English and, therefore, the same applies for the language of the present summary of the replies that have been received.

### **Results – Stakeholders**




Replies were provided by stakeholders from 24 countries, consisting in particular of 24 national maritime authorities from 23 EU Member States and Norway, 14 representatives from seafarers' and 4 shipowners' associations. More specifically, ETF, ECSA, and the maritime authorities of CY, DK, FR, LV, MT, NL, PT, SK and NO participated to the

consultation and agreed to be referred to in the Staff Working Document under their identity as a contributing Member State. Several Member States, trade unions and ship-owners' associations objected and will be referred to in an anonymous form.




The results are presented on a question by question basis, following the same order as in the questionnaire. The focus is on the presentation of the statistics, while the specific comments and clarifications that several Member States provided, as well as specific concerns, are addressed in the relevant parts of the Staff Working Document.

### **Alignment of Directive 2008/106/EC to the international framework**

Question 1 inquired whether participants consider that the Annex I to Directive 2008/106/EC should be amended to fully incorporate the new amendments in Regulation V/2, Regulation V/3, and Regulation V/4 of the STCW Convention. Only CY, partially disagreed for all three Directives, while 41 stakeholders agreed fully or partially.

<b>Question 1</b>		<b>Answers</b>	<b>Ratio</b>
Fully Agree		38	90.48 %
Partially agree		3	7.14 %
Partially disagree		1	2.38 %
Fully Disagree		0	0 %
No opinion		0	0 %
No Answer		0	0 %

The second question focused on whether to establish a mechanism for enabling a more rapid adaptation to the changes in the STCW Convention and Code would be welcomed by the stakeholders. 78% fully favoured rapid adaptation, while another 19% of the stakeholders partially agreed.

<b>Question 2</b>		<b>Answers</b>	<b>Ratio</b>
Fully agree		33	78.57 %
Partially agree		8	19.05 %
Partially disagree		1	2.38 %
Disagree		0	0 %
No opinion		0	0 %
No Answer		0	0 %

### **Procedures for the recognition and reassessment of third countries**

As for question 3, asking if the Commission should, following the request from a Member State, discuss the reasons and examine the need for the recognition of a new third country with all the Member States before beginning the initiation of the recognition process, the



answers depended very much on the participants' affiliation. Shipowner's associations tended to strongly disfavour this measure, arguing it would potentially raise the administrative burden while in their opinion might contravene Regulation I/10 of the STCW Convention. National maritime authorities took however a positive view (58%) with a minority of the Member States (33%) raising concerns to a discussion of the reasons prior to the start of the recognition process, as according to them this should be a national matter of the member states, with the Commission solely launching the evaluation process. The seafarers' organisations voice strong preference towards the establishment of such an additional round of discussion in the Commission as an additional safeguard of using efficiently the available resources.

Question 3		Answers	Ratio
Fully agree		22	52.38 %
Partially agree		6	14.29 %
Partially disagree		2	4.76 %
Disagree		10	23.81 %
No opinion		2	4.76 %
No Answer		0	0 %

An analysis including the estimation of numbers of officers and masters likely to be employed from the third country as a prerequisite for new request submitted by MS was the basis for question 4. Shipowners' associations were partially in favour of such a rule, similarly, all seafarer's associations and trade unions support such a policy. Similarly, the majority of Member States fully or partially agreed (62.5%), but NL, MT, and DK, along with five other national authorities (32% of the MS participated) opposed such a measure due to a number of concerns, *inter alia* arguing that estimates would likely be inaccurate, that there might be reasons other than the current need for seafarers for pursuing the recognition of a third country, and that the requesting Member State should have the control over the decision.





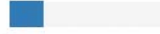
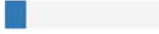
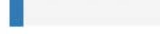
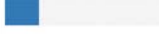
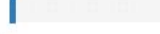
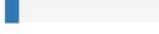

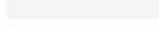
Question 4		Answers	Ratio
Fully agree		19	45.24 %
Partially agree		11	26.19 %
Partially disagree		4	9.52 %
Disagree		6	14.29 %
No opinion		2	4.76 %
No Answer		0	0 %

Question 5 contained the proposal that the evaluation period should be extended from the current 18 months to 24 months, as no assessment has yet been completed within this time frame. This suggestion was welcomed by most participants, Member States, ship-owners' and seafarers' associations alike, with one vocal exception being DK. They question the




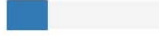
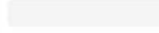


effectiveness of such deadlines and instead suggest a different approach with inspection plans presented and discussed at COSS allowing flexibility in terms of timeline. CY favours a stricter approach with shorter extension periods in case a third country does not rectify deficiencies in its training system.

The opinions are less favourable, but similar, for question 6, which proposed a possible extension of the evaluation period to 36 months for those third countries in the evaluation process that have to implement corrective actions. While the majority of stakeholder opinions is still supportive, especially the seafarers' associations and trade unions as well as national maritime authorities urge a more cautious approach in case of countries with a higher number of deficiencies in their system.


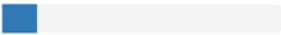
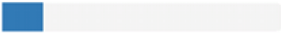
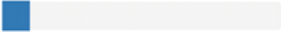
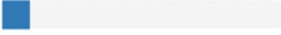
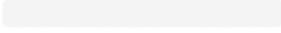
	Question 5	Answers	Ratio	Question 6	Answers	Ratio
Fully agree		23	54.76 %		13	30.95 %
Partially agree		11	26.19 %		19	45.24 %
Partially disagree		5	11.9 %		3	7.14 %
Disagree		2	4.76 %		5	11.9 %
No opinion		1	2.38 %		2	4.76 %
No Answer		0	0 %		0	0 %

The views regarding the impact of such a measure, the focus of question 7, vary significantly between the different stakeholders, with most seafarers' associations and trade unions anticipating negative effects, especially in regards to the training of seafarers from unilaterally recognised third countries, (i.e. while the evaluation is taking place,). In this regard, seafarers' representatives argued that a prolonged evaluation period can be caused by the need to implement changes after the detection of system deficiencies in the third country, an indication that the training of seafarers with unilaterally recognised certificates might be insufficient, and thus endangering maritime safety. The majority of national maritime administrations, however, believe that there will either be no negative impact, or considered the possible negative effects to be small as long as a unilateral recognition of third country certificates by the requesting Member State remains a possibility. Similarly, most shipowners' associations are in support of the extension and would not expect any negative effects.


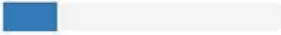
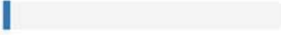
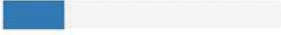
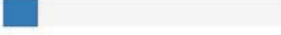

Question 7	Answers	Ratio
Serious negative impact		14 33.33 %
Minimal negative impact		8 19.05 %
No negative impact		14 33.33 %
No opinion		6 14.29 %
No Answer		0 0 %

The opinions regarding the extension of the reassessment period from five years to up to ten years, as suggested in question 8, were mostly favourable, as national maritime



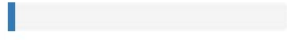
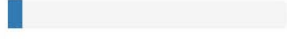
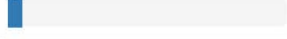
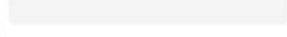
administrations, trade unions as well as shipowners' associations acknowledge the limits of EMSA's resources in the face of an ever growing number of recognised third countries. Some national maritime authorities, among them DK, instead suggest a more risk-based system.

Question 8		Answers	Ratio
Fully agree		23	54.76 %
Partially agree		5	11.9 %
Partially disagree		6	14.29 %
Disagree		4	9.52 %
No opinion		4	9.52 %
No Answer		0	0 %

Question 9 contained the proposal to assess the need to keep a third country recognised also on the basis of the number of seafarers employed from that country. This question produced more mixed responses, with ship-owners' associations, and ECSA, opposing such a policy on the grounds of the likely negative consequences on the employed seafarers from the respective third country and their employers. On the other hand the majority of the national administrations had a positive view (58% against 24% with a negative view) arguing that this would allow for a more efficient use of EMSA's and the Commission's limited resources. From the Member States disagreeing with the idea, NL elaborated on the reasons by arguing that the Member States should instead report to the Commission in case the need for recognition of the third country no longer persists. The ETF and the trade unions unanimously supported such a measure.

Question 9		Answers	Ratio
Fully agree		19	45.24 %
Partially agree		8	19.05 %
Partially disagree		1	2.38 %
Disagree		9	21.43 %
No opinion		5	11.9 %
No Answer		0	0 %

Proposed in question 10, a definition of priority criteria for the reassessment of third countries by the Commission was supported by a majority of stakeholders. Most national shipowner associations as well as ECSA supported the introduction of priority criteria, but specified that they do not believe there is a need for new additional criteria in the Directive. Three Member States' national maritime authorities disagreed without further elaborating on their opposition.



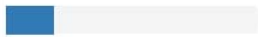
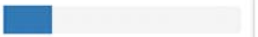
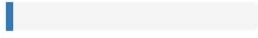

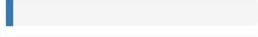
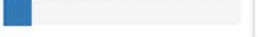
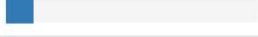
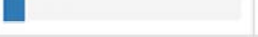


Question 10		Answers	Ratio
Fully agree		23	54.76 %
Partially agree		14	33.33 %
Partially disagree		1	2.38 %
Disagree		2	4.76 %
No opinion		2	4.76 %
No Answer		0	0 %

In question 11, stakeholders then had the opportunity to list the general principles that they deemed most important when defining the priority criteria for third countries reassessment. ECSA suggested the application of the current priorities stated in Art.21 §2 of Directive 2008/106/EC and opposed the introduction of any new or additional criteria. ETF as well as a number of seafarers' organisations and trade unions instead suggest an amendment of the abovementioned existing criteria to additionally take into account the number of endorsements issued to masters and officers and possible changes to the education and training system in the third country. The most frequently proposed criteria by the Member States and the other stakeholders are summarised in this list:

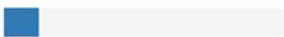
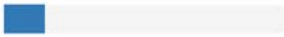
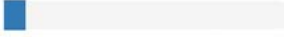

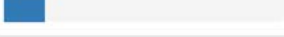

- Number and seriousness of deficiencies identified in the maritime education, training and certification system of the third country
- Results of the independent evaluation report under Regulation I/8 of the STCW Convention
- Information about unlawful practices and issuance of fraudulent certificates
- Major changes in the system of the third country
- Number of EaRs issued by the Member States for each of the third countries.

### **Mutual recognition of seafarers' certificates issued by Member States**

Questions 12, 13 and 14 were related to the mutual recognition of Seafarers' Certificates issued by Member States of the European Union. Almost all stakeholders supported the merging of Directive 2005/45/EC and 2008/106/EC as proposed in question 12. A similar strong support was shown also in question 13 concerning the recognition of seafarers' certificates from other Member States only for the purpose of working onboard and without expanding the current scope of Directive 2005/45/EC.

	Question 12	Answers	Ratio	Question 13	Answers	Ratio
Fully agree		29	69.05 %		25	59.52 %
Partially agree		7	16.67 %		7	16.67 %
Partially disagree		1	2.38 %		3	7.14 %
Disagree		1	2.38 %		4	9.52 %
No opinion		4	9.52 %		3	7.14 %
No Answer		0	0 %		0	0 %

Question 14 focuses on the recognition of STCW-related diplomas for the purpose of issuing national CoCs and CoPs. There was a strong opposition from a large majority of national maritime authorities as well as seafarers' organisations and trade unions to such a practice due to what is described as a substantial variety in qualifications and ancillary courses that are part of STCW certificates. There were, however, some Member States which supported the idea of mutual recognition of seafarers' certificates also for the purposes of issuing national certificates,

Question 14		Answers	Ratio
Fully agree		5	11.9 %
Partially agree		6	14.29 %
Partially disagree		3	7.14 %
Disagree		22	52.38 %
No opinion		6	14.29 %
No Answer		0	0 %

## **ANNEX 2: SUMMARY OF THE WORKSHOP ON THE AMENDING DIRECTIVE ON THE MINIMUM LEVEL OF SEAFARERS TRAINING INCLUDING THE MUTUAL RECOGNITION OF CERTIFICATES BY MEMBER STATES**

Brussels, 6 March 2018

**Represented bodies:** ECSA, ETF

The workshop was organised by the Commission in the context of the stakeholders' consultation for the preparation of the Commission's proposal on amending the legislative framework regarding seafarers' training and certification requirements in the EU and recognised third countries (Directive 2008/106/EC and Directive 2005/45/EC).

The meeting was opened and chaired by Ms C. Berg, Head of Unit of DG MOVE D.2 Maritime Safety, who explained the context of the proposed amendments in view of current seafarers' training requirements and certification regulations. The Chair presented the legislative framework regarding seafarers' training and certification requirements at both EU and IMO level, highlighting the differences in evaluation and recognition procedures at EU level and those required by the STCW Convention developed under the umbrella of the IMO. Subsequently, the Chair briefly presented the results of the REFIT evaluation that took place last year and illustrated the achievements and difficulties under the current framework, and the main objectives for the proposed amendments. This was the last opportunity to discuss with the Member States and the stakeholders the areas that should be amended.

During the meeting the Commission presented the results of the stakeholders' consultation, which lasted from 5 February to 2 March and where 42 participants, among them 24 Member States, ECSA, and national ship-owners' associations and seafarers' trade unions gave their feedback on the intended changes, followed by a discussion on each question, and general comments from Member States and stakeholders at the end of the meeting.

Concrete issues raised by the participants:

### **Alignment with the new amendments to the STCW Convention**

All Member States as well as ECSA and ETF fully supported the alignment of the Directive with the three new amendments to the STCW Convention related to training requirements for passenger ships and ships falling under the Polar Code and the IGF Code.

A unanimous support was also given to introduce delegated acts in order to empower the Commission to amend the Directive in the future and align it with any new amendments to the STCW Convention.

### **Adjusting the centralised system for the recognition of third countries**

This was the most controversial point where a number of different and diverse views were expressed by the participants. The results of the consultation indicated that the majority of the Member States are in support of the idea to first include a discussion including all the

Member States as a new procedural step following a request from a member state to recognise a third country in the current procedures before calling on EMSA to begin the evaluation process. ETF also highly supported the idea of establishing a procedure to discuss the reasons and the need for recognition of a third country following the request of a Member State within the Commission prior to EMSA commencing the evaluation of the country's training system.

However, some Member States (DK, MT and FR) expressed their concerns on whether this would raise the administrative burden and remove the current procedure's flexibility. The same concern was raised by ECSA. On the other hand, many countries (PT, GR, IE, LV, UK) supported the idea to increase the transparency of the usage of the Union budget and more efficiently apply EMSA's resource.

The Chair explained that the flexibility in the system will be maintained, since the requesting Member State will continue to have the opportunity to bilaterally recognise the third country until EMSA's evaluation is concluded and a decision on the recognition is reached in COSS.

A strong support was shown for extending the deadline for the recognition period in order for it to better reflect the complexity of the diplomatic steps required for EMSA to enter a third country and more accurately take into account the time needed for the implementation of the necessary corrective actions by the third country.

In the same vein, the participants supported the extension of the reassessment period from 5 to 10 years on the basis of priority criteria including safety concerns and the number of seafarers employed by the third country.

The second point creating a vivid discussion and raised concerns (from MT and DK as well as ECSA) was the suggestion of an automatic de-recognition of third countries from which no seafarers were employed for a considerable time period. However, the majority of the participants both during the workshop and in the stakeholder consultation, including ETF, supported the idea to increase efficiency and to potentially derecognise third countries from which no seafarers have been employed for a considerable interval.

### **Mutual recognition of seafarers' certificates issued by the Member States**

The clarification of the current scheme without a further expansion of its scope received the full support of all participants. In particular, the Member States, ECSA and ETF supported the automatic recognition of seafarers' certificates issued by other Member States for allowing the seafarers to work on-board any vessel under another EU flag.

One Member State raised concerns during the workshop regarding cases of a Member State approving training courses in another Member State.

Finally, there was no support for the idea of imposing the obligation to the Member States to issue national certificate on the basis of training received in another Member State.